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Groupe d'États contre la corruption

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FOURTH EVALUATION ROUND

Corruption prevention in respect of members of parliament, judges and prosecutors

COMPLIANCE REPORT

NETHERLANDS

Adopted by GRECO at its 68th Plenary Meeting
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FOURTH EVALUATION ROUND

I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of the Netherlands to implement the recommendations issued in the Fourth Round Evaluation Report on the Netherlands which was adopted at GRECO's 60th Plenary Meeting (17-21 June 2013) and made public on 18 July 2013, following authorisation by the Netherlands (Greco Eval IV Rep (2012) 7E). GRECO's Fourth Evaluation Round deals with "Corruption prevention in respect of members of parliament, judges and prosecutors".

2. As required by GRECO's Rules of Procedure, the authorities of the Netherlands submitted a Situation Report on measures taken to implement the recommendations. This report was received on 19 December 2014 and served, together with the information submitted subsequently, as a basis for the Compliance Report.

3. GRECO selected Lithuania and Greece to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Elena KONCEVICIUTE, on behalf of Lithuania and Ms Panagiota VATIKALOU, on behalf of Greece. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.

4. The Compliance Report assesses the implementation of each individual recommendation contained in the Evaluation Report and establishes an overall appraisal of the level of the member's compliance with these recommendations. The implementation of any outstanding recommendation (partially or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities 18 months after the adoption of the present Compliance Report.

II. ANALYSIS

5. GRECO addressed seven recommendations to the Netherlands in its Evaluation Report. Compliance with these recommendations is dealt with below.

Corruption prevention in respect of members of parliament

6. The authorities of the Netherlands submit that both Houses of Parliament assigned a special committee/working group to review current regulations and legislation and to assess where improvements, as proposed in the Evaluation Report, would be desirable. After careful consideration of the recommendations, both bodies produced extensive reports including proposals for improvement: the First Chamber's "temporary GRECO-report committee" on 13 May 2014 and the Second Chamber's working group on 16 October 2014. Both Chambers then endorsed the vast majority of the proposals: the First Chamber on 17 June 2014 and the Second Chamber on 28 October 2014.

Recommendation i.

7. *GRECO recommended that codes of conduct for the members of both Chambers of Parliament be developed and adopted with the participation of their members and be made easily accessible to the public (including notably guidance on prevention of conflicts of interest, gifts and other advantages, accessory activities and financial interests, disclosure requirements, misuse of information, contacts with third parties such as lobbyists).*

8. The authorities report that this recommendation was addressed, among others, by developing the Rules of Procedure of each Chamber. More specifically, the First

Chamber (Senate) revised its Rules of Procedure on 15 March 2015 to introduce a new Chapter XIIa on Integrity. It contains eight general articles dealing with conflicts of interest, gifts, foreign trips, accessory activities and handling of confidential information. According to the report of the temporary GRECO-report committee, these rules are voluntarily of a general nature. They are meant to be fleshed out and complemented by additional guidelines from each of the First Chamber's political groups. The committee made a distinction, namely, between rules which ought to be uniform for all senators and are therefore best included in the House's Rules of Procedure, and rules which need to be discussed and agreed upon within each political group. The Senate therefore recommended to the political groups sitting in the Chamber to lay down their own agreements on integrity in writing and to communicate them to the groups' members as well as to the public. The updated Rules of Procedure of the Senate entered into force on 9 June 2015. Several political groups – PvdA, VVD, D66, GroenLinks and ChristenUnie – have drafted agreements on integrity, which have been published on the website of the Senate[1] or on the respective parties' websites. Other groups' plans in that regard are still unclear, but they have accepted the recommendations of the committee. As a result, a majority of senators will in turn fall under their groups' respective integrity agreements. Only the PVV stated that they will not draft any agreement on integrity.

9. A new article 156a in the Rules of Procedure of the Senate contains a general rule according to which each senator must account for his/her other interests and ensure that they do not improperly influence the performance of his/her duties and responsibilities. This general rule is meant to be elaborated more in detail within the political groups and the Senate made a recommendation to this effect to them. As regards gifts and foreign trips, the updated Rules of Procedure have extended the disclosure requirements for senators, inspired by those existing for members of the Second Chamber. Senators will have to declare, within one week of receipt, any gifts of a value exceeding 50 Euros that they received in their position as senator. This information will be included in a public register that will be available on the Senate's website after the summer recess. The report of the special GRECO-report committee notes that gifts accepted by senators within the framework of their primary position – keeping in mind that the function of senator is a part-time occupation – do not fall within the scope of this requirement. Foreign trips made by senators in their capacity as member of the Senate also have to be declared within one week of the senator's return, provided they were at the invitation of and paid for by third parties. An exception to this disclosure requirement is foreseen if, for objective reasons, disclosing this information would compromise the safety of the member concerned. Rules on disclosure of accessory activities were also developed (see below under recommendation ii). The temporary GRECO-report committee also examined the introduction of possible rules regarding contacts of senators with lobbyists and other third parties, but concluded that it is the responsibility of the political groups and individual senators to determine with which third parties they wish to maintain contact.

10. The working group established by the Second Chamber (House of Representatives) made several recommendations to complement the Rules of Procedure, which were consequently amended on 20 November 2014. The amendments will be explained below under recommendation ii. The group also recommended bunching together all the existing rules, including excerpts from the relevant explanatory memorandums, into an "Integrity of Members of Parliament Regulations" document, distributing it to the MPs and making it accessible to the public. The resulting document was distributed electronically to MPs in May 2015 and published on the Chamber's website on 25 June 2015. According to the working group, the

[1] http://www.eerstekamer.nl/id/vjs3h9p2vifg/document_extern/integriteitsregels_pvda_fractie/f=/vjs3ha4wjnub.pdf

Constitution, the law and the Rules of Procedure of the House of Representatives already contain all elements of a code of conduct as identified in the GRECO recommendation – except rules on contacts with third parties, regarding which the group merely noted that "it finds it practically impossible to require MPs to actively report all the contacts they maintain". The group therefore found no need to repeat or paraphrase the existing rules into a document of lesser value. It also decided against fleshing out the rules further into a comprehensive listing of standards of conduct, accompanied by a detailed explanation, as it found that this carried the risk of weakening MPs' critical reflection on their own actions. The working group also noted that political parties and/or groups are free to develop their own codes of conduct to go beyond the existing legislation and regulations and that many had actually done so.

11. GRECO is pleased that the temporary bodies established within each Chamber to review the current framework applicable to MPs in light of the Evaluation Report have thoroughly considered the best way to implement this recommendation. As regards the Senate, GRECO welcomes the introduction of a new chapter on integrity in the Rules of Procedure which contains provisions on all the issues identified in the recommendation, except contacts with third parties. It notes that these general rules are meant to be complemented by arrangements on integrity decided at the level of the political groups within the Senate, and that a recommendation to this effect has been made by the Senate committee. GRECO also takes note of the existing arrangements of certain political groups or parties on integrity. However, not all of them seem to have taken measures in this respect and one has actually refused to do so. Consequently, recommendation i can only be considered partly implemented as regards the Senate.

12. In respect of the House of Representatives, GRECO notes with interest the analysis of the working group, according to which compiling the existing (revised) rules and regulations into one document would be preferable to fleshing them out into a more comprehensive list of standards, accompanied by detailed comments and explanations. The reason given by both Chambers for avoiding overly detailed regulations on ethics was to stimulate a critical and permanent reflection by MPs on their own conduct, rather than constraining it to a fixed set of detailed prescriptions. This permanent reflection is seen as a central aspect of the integrity system applicable to parliamentarians in the Netherlands and several of the other measures described below in this report are meant to stimulate this reflection further. GRECO also notes that the compilation of rules and regulations was distributed electronically to MPs and will be published soon. It agrees that the relevant rules deal with all aspects identified in the recommendation, save the issue of contacts with third parties. GRECO regrets, however, that neither Chamber has felt able at this stage to introduce rules on this issue and stresses that the aim of this part of the recommendation is not to oblige parliamentarians to report each and every contact with lobbyists and other third parties, but to be given appropriate guidance on "do's and don'ts" in such situations. It encourages the Chambers to reflect further on this issue, for instance in the framework of the awareness measures reported under recommendation iv. The recommendation is thus to be regarded as partly implemented for the House of Representatives as well.

13. GRECO concludes that recommendation i has been partly implemented.

Recommendation ii.

14. *GRECO recommended that (i) current disclosure requirements applicable to the members of both Chambers of Parliament be reviewed with a view to increasing the categories of interests and the level of detail to be reported, so as to provide all the relevant and necessary information on interests of members of Parliament (e.g.*

outside activities and positions, assets, liabilities) and (ii) that consideration be given to widening the scope of disclosure to include information on spouses and dependent family members, as appropriate (it being understood that such information would not necessarily need to be made public).

15. As regards the first part of the recommendation, the authorities report that in respect of the Senate, the updated Rules of Procedure complement the obligation for senators to disclose their accessory activities and positions by requiring them to provide a brief description of the work they perform for each activity or position and the name of their employer, as well as a brief explanation about the organisation for which they work, if this is not clear from the previous description. In the specific case of consultancy, the sector in which the senator provides consultancy services must be indicated. The temporary GRECO-report committee also deliberated on whether senators ought to disclose if their accessory activities were paid or not. In view of the fact that the activity of a senator is not a full-time occupation, the committee believed that disclosing this information was not necessary and should be left for decision by the political groups. The committee noted that the situation of senator was in essence different to that of members of the Second Chamber, who are full time politicians and thus required to disclose any income from accessory activities, which is then deducted from the benefits to which they are entitled.

16. As regards the second part of the recommendation, the authorities explain that the temporary GRECO-report committee of the Senate examined whether information on spouses and family members ought to be disclosed by senators. In view of the fact that the mandate of senator is itself a part-time activity, senators are not required to disclose the income from other accessory activities. It follows that they have no reason to transfer assets to family members to avoid reporting obligations, as no such obligations exist. As regards possible alleged or actual conflicts of interests involving family members, the committee was of the view that such cases occurred mainly where specific executive decisions were taken, such as the awarding of a subsidy or allowance. The committee stressed that senators, as members of a body with co-legislative and supervisory powers, are rarely – if ever – involved in such decisions.

17. In respect of the Second Chamber, article 150a of the Rules of Procedure was amended – as proposed by the working group – to expand the categories of interests to be reported by MPs. Reporting on accessory activities and related income was complemented by an obligation to report on "any interests that can reasonably be deemed relevant". Wording as regards reporting of gifts and expense-paid trips was clarified to avoid possible differences of interpretation by MPs on the reporting of benefits in kind and trips paid in whole or in part by third parties.

18. The working group also recommended that the term "interest" be interpreted in the widest possible sense and that it should not be limited to accessory activities and positions or to financial interests. Examples of interests that could be relevant are previous positions occupied by the MP, for instance as a lobbyist, a reinstatement guarantee or other special arrangements concerning work after the end of their term of office, or a controlling interest in a company. The working group also noted, in respect of the second part of the recommendation, that specific circumstances concerning his/her spouse or other direct family members could also be seen by third parties as relevant interests. The group refrained from recommending that this information always be reported for reasons of privacy and practicality. The group noted in this regard that, depending on the circumstances, interests of other persons such as close friends could be relevant as well. To sum up, the working group left it to the discretion of each MP to determine which interests, also

regarding close persons, would be relevant to the public. Other recommendations made by the working group regarding awareness (see under recommendation iv) are meant to help the MP in this determination.

19. GRECO appreciates that both Chambers have further developed disclosure requirements to ensure that all relevant interests of MPs are disclosed to the public, as required by the first part of the recommendation. As regards the second part of the recommendation, GRECO notes that both Chambers have considered the possibility of widening further the scope of disclosure to include information on spouses and close persons. It regrets that this consideration has not resulted in any changes to the rules in this respect, aside from the possibility that an MP may consider the information on close persons as relevant. This is, however, left to the discretion of the member concerned. GRECO notes that the requirement of the second part of this recommendation ("to consider") has been adequately addressed. That said, GRECO urges the authorities to keep this matter under review.

20. GRECO concludes that recommendation ii has been implemented satisfactorily.

Recommendation iii.

21. *GRECO recommended that appropriate measures be taken to ensure supervision and enforcement of the existing and yet-to-be established declaration requirements and other rules of conduct of members of Parliament.*

22. The authorities explain that both parliamentary commissions examined the issue of supervision and enforcement of the integrity rules. The temporary GRECO-report committee of the Senate stressed that, under the Constitution, senators have a free mandate which entails that they cannot be required to vote along party or group lines and cannot be suspended or forced to resign if they do not act with integrity. That said, political groups can take decisions with respect to senators behaving in an unethical manner, such as expelling them from the group or refusing to nominate them for the next elections. Against this constitutional background, the committee saw little room for sanctions, as they would need to be introduced by a formal law or even a constitutional amendment. The committee was not in favour of such a solution and recommended instead that the political groups take appropriate action against a member who disregards the integrity guidelines of the group. Such cases ought also to be discussed among the political groups, as all groups have a joint interest in upholding the Senate's reputation. More serious issues that could not be resolved within and among the political groups could be referred to the Senate's Committee of Seniors. Although it has no formal sanctioning powers, its decisions and advice are generally based on consensus and are authoritative. The committee also found that the President of the Senate could play an advisory role in integrity issues, given his/her position between the political groups and the Committee of Seniors.

23. The working group established by the House of Representatives came to the same conclusion as its counterpart in the Senate and for essentially the same reasons. As stripping an MP of his/her mandate is not possible for constitutional reasons, the group stressed that the preventive and corrective supervision over the integrity of MPs belonged to the political parties who nominated them for elections and to the political groups to which they belonged within the House. In its view, this system emphasises an important value, namely that an elected representative must have as independent a position as possible with respect to "authorities". The working group did recommend that the instructions for the Secretary General's Office be modified to provide that the Office advise every six months each MP to update their information in the registers of gifts, foreign trips and outside activities/interests,

using this opportunity to correct possible omissions. However, it stressed that ensuring that this information was correct was the sole responsibility of the MPs concerned and that the Secretary General's Office or other administrative bodies should in no event be held responsible for registration.

24. GRECO takes note of the information provided. Although GRECO's position and reasoning have been taken into account by both chambers' working bodies, it regrets that these considerations have not resulted in any changes to the supervision and enforcement system. GRECO understands the argument of the authorities according to which the constitutional principle of free mandate prevents a parliamentarian from being removed from office, except for very specific reasons established by law. Yet, this does not preclude softer sanctions, like a reprimand or suspension from participating in certain sessions or meetings. Such sanctions are actually foreseen for certain violations of the Rules of Procedure of both chambers, notably, as regards breaches of the confidentiality rules. GRECO cannot see why similar sanctions could not therefore be foreseen for breaches of the integrity rules.

25. More decisive is the argument of the independence of elected representatives vis-à-vis "authorities". Integrity is seen as a matter chiefly for the responsibility of the representatives themselves, with a subsidiary role for the political groups or parties to screen their members, ensure that they behave in an ethical manner and take appropriate action if they do not. GRECO stands by its position expressed in the Evaluation Report and with respect to numerous other countries, namely, that parliament has a vested interest in supporting the integrity of its members and that it ought to take affirmative action to this end. It notes that the report of the Senate's committee leaves some room for this idea, when it states that serious cases of breaches that could not be resolved within the political groups could be taken up by the College of Seniors. Such a system could be developed, with primary responsibility for supervision and enforcement belonging to the MPs themselves and the political groups and with the relevant bodies of the chambers taking over for more serious or unresolved cases. GRECO would need, however, more detailed information on the arrangements for enforcing integrity rules existing at the level of the political groups/parties and on concrete examples of their use, in order to be able to ascertain whether these arrangements respond to the concerns contained in the recommendation.

26. GRECO concludes that recommendation iii has not been implemented.

Recommendation iv.

27. *GRECO recommended in respect of both Chambers of Parliament, (i) the establishment of a specific source of confidential counselling with the mandate to provide parliamentarians with guidance and advice on ethical questions and possible conflicts of interests in relation to specific situations; and (ii) the provision of specific and periodic training for all parliamentarians on ethical questions and conflict of interests.*

28. As regards the first part of the recommendation, the authorities report in respect of the Senate that the temporary GRECO-report committee concluded that counselling should occur primarily within political groups and urged senators to discuss any integrity issues they may have within their groups. The committee also encouraged discussions and consultations among different political groups and found that the President of the Senate could have an advisory role in integrity matters. It found no need, therefore, to further formalise the existing venues for confidential counselling.

29. The House of Representatives, for its part, decided to follow the recommendation of GRECO and the working group by appointing a confidential integrity advisor, to whom the MPs could turn for advice on integrity issues. According to the conclusions of the working group, such an advisor would have added value in acting as a "sparring partner" for an MP concerning integrity issues and in stimulating continuous reflection, as recommended in the GRECO report. The group felt it important that this advisor not be an active politician, whose independence could be called into question, but rather a person who is familiar with the environment in which MPs operate. The appointment of the advisor by the Presidium of the House is currently in progress.

30. As regards the second part of the recommendation, the temporary GRECO-report committee of the Senate made several proposals: 1) that the applicable regulations be brought to the attention of senators not only at the beginning of their term of office, but also mid-term, for instance in an official memorandum; 2) that the rules on the disclosure of accessory activities be specifically communicated to senators; 3) that senators be asked, at least every six months, by letter from the President of the Secretary General to update the information on their accessory activities. The committee stressed the vital importance of the information on the website being correct, up-to-date and complete; 4) that a meeting on integrity be organised after a new Senate has taken office, so that the applicable legislation and regulations can be discussed and senators can ask questions and discuss integrity issues. In addition, in order to continue reflecting on integrity matters, the Committee recommended that integrity be a standing item on the agenda of the Senate's Committee of Seniors, at least once in every term.

31. The House of Representatives also decided that a course on integrity would be added to the introductory courses offered to new MPs upon their entry into office, in order to underscore the importance of integrity and the existing rules. The working group had made two other recommendations in this respect, namely that periodic meetings on integrity issues be held with groups of MPs and that each meeting be evaluated to determine whether it had resulted in suggestions for revisiting or expanding the existing integrity rules. Neither of these recommendations was endorsed by the Presidium of the House.

32. As regards the first part of the recommendation, GRECO appreciates that the House of Representatives has decided to appoint a confidential integrity advisor. When this person is appointed, it will be possible to assess this part of the recommendation as implemented satisfactorily; however, only in respect of the House of Representatives. GRECO encourages the Senate, which decided not to revisit the current informal arrangements for confidential counselling, to reconsider its position in this respect.

33. As regards the second part of the recommendation, GRECO takes the view that the measures reported by both chambers go some way towards responding to the concerns of the recommendation, but their implementation does not seem to have yet begun. It stresses that the recommendation calls for specific and periodic training and regrets, therefore, that the House of Representatives has not followed the recommendation of its working party to organise periodic meetings with groups of MPs on integrity. Such a measure would undoubtedly have added value, as the working party stressed, and would fulfil the aim of the recommendation. Similarly, GRECO invites the Senate to consider organising meetings on integrity, not only at the beginning of the mandate of the new Senate, but at more regular intervals.

34. GRECO concludes that recommendation iv has not been implemented.

Corruption prevention in respect of judges

Recommendation v.

35. *GRECO recommended that a restriction on the simultaneous holding of the office of judge and that of member of either Chamber of Parliament be laid down in law.*

36. As a preamble, <u>the authorities</u> stress that the Netherlands remain strongly convinced that judges should actively participate in society and that having accessory activities is a useful addition to the exercise of the judicial office. This said, being an active judge and, at the same time, holding a seat in one of the two chambers of Parliament is generally regarded as incompatible by members of the judiciary and such a combination of functions is advised against in the guidelines and codes of conduct, drawn up by members of the judiciary, that list activities incompatible with the judicial office. It is to be noted that the simultaneous exercise of judicial office and parliamentary functions has not been encountered in practice in recent years.

37. In the light of these circumstances, <u>the authorities</u> wish to carefully consider whether and, if so, how a prohibition on combining being an active judge and holding a seat in parliament should be laid down in law. The implications of this recommendation are being discussed by a special working group, in which the Council for the Judiciary, the presidents of the courts and the Dutch Association for the Judiciary are represented. This group, which will hold its first meeting in July 2015, will develop recommendations to the Council for the Judiciary on the further improvement of the guidelines and codes of conduct. The position of the Council for the Judiciary and the Dutch authorities on the response to this recommendation will be decided in light of the group's findings.

38. <u>GRECO</u> takes note of the fact that the Dutch authorities have not yet determined their position as regards this recommendation. According to the information provided, the working group that will inform the decision of whether and how to implement the recommendation has recently started its activity. GRECO reiterates its concern that the lack of legal prohibition on being, at the same time, judge and member of parliament raises questions from the point of view of the independence of justice and the separation of powers. As explained by the Dutch authorities and highlighted already in the Evaluation Report (paragraph 96), such a combination is seen as undesirable in the guidelines applicable to members of the judiciary and indeed has not occurred in practice in recent years. The reasoning given in the guidelines is that, as the incompatibility of some judicial offices – those at the Supreme Court – with a legislative mandate is laid down in law, by extension all similar combinations should be discouraged. While this advice may have been sufficient in recent years to prevent the combination of a judicial and legislative office, practices can evolve. Such cases have occurred in the past, especially in the Senate, in which members have part-time mandates. The Evaluation Report did note that the situation in this regard appeared less clear in the Senate than in the House of Representatives. GRECO recalls that it is an internationally recognised principle that the independence of the judiciary should be guaranteed by domestic standards at the highest possible level and urges therefore the Dutch authorities to give effect to the recommendation.

39. <u>GRECO concludes that recommendation v has not been implemented</u>.

Recommendation vi.

40. *GRECO recommended that regulations, guidelines and policies be reviewed to ensure that substitute judges have appropriate standards and guidance on conflicts of interest and other integrity-related matters.*

41. The authorities explain that legislation on the subject of integrity is equally applicable to judges and substitute judges. Statutory rules on accessory activities in force since the beginning of 2013 apply to deputy judges, as do, where possible, the "Guidelines for Judicial Impartiality and Ancillary Positions". These guidelines include specific recommendations for deputy judges, giving them guidance on possible conflicts of interest. A special working group of several court presidents, established in 2013, has reviewed whether additional regulations, guidelines or policies for deputy judges are necessary and issued recommendations, which are being discussed with the Council for the Judiciary and the court presidents. Topics under discussion included *inter alia* ensuring independence and impartiality, incompatibilities, dismissal and organisational demands. They will be formally adopted during the summer of 2015.

42. GRECO welcomes the ongoing review, as foreseen in the recommendation, of the regulatory and policy framework for substitute judges, in order to determine whether specific additional guidance on integrity matters is necessary. It looks forward to being informed in due course of the results of this work.

43. GRECO concludes that recommendation vi has been partly implemented.

Corruption prevention in respect of prosecutors

Recommendation vii.

44. *GRECO recommended that an evaluation of the integrity policy and of its effects on integrity awareness among the members of the prosecution service be carried out, with a view to improving or updating this policy where necessary.*

45. The authorities report that, following the setting-up of the Integrity Bureau of the Prosecution Service in 2012, the main challenge has been to safeguard the integrity policy in practice. Differences have been observed in the stages of development concerning integrity among the various organisational units of the prosecution service. Areas of attention include timely reporting of suspicions of integrity violations to the Integrity Bureau, uniformity in the manner of handling integrity violations, the role and responsibility of management in integrity matters and the continuous facilitation and enabling of open discussions concerning integrity issues and dilemmas.

46. In cooperation between the Board of Prosecutors General and the Integrity Bureau, steps are currently being taken to safeguard and anchor the integrity policy in practice and to stimulate all organisational units to make full use of it. The Chief of the Board of Prosecutors General – the governing body of the prosecution service – and the Head of the Integrity Bureau are in the process of visiting all heads of the various units of the prosecution service to discuss how the integrity policy works in practice. During these visits, local areas of attention or improvement are identified and concrete arrangements are made concerning further implementation, anchoring and internalisation of the integrity policy in practice. These topics are also discussed separately with the dedicated integrity officers and the employees' council of the prosecution service of each unit.

47. Once the discussions referred to in the previous paragraph are completed, the next step is the setting-up of expert teams consisting of specialists from the Integrity Bureau and professionals from various parts of the prosecution service who have experience in handling integrity issues. These teams will share experience, lessons learned, best practices and expertise with local management teams throughout the country and thus contribute to spreading knowledge and awareness concerning integrity. The authorities mention their intention to continue monitoring the integrity policy and its operation. An evaluation could therefore be carried out in about two years in order to assess what effects the measures reported in the previous paragraphs have had.

48. In addition, the authorities report that, following media reports of possible attempts at influencing public officials by inviting them to sporting events, the Central Government Audit Service recently started an investigation into awareness among the staff of the Ministry of Security and Justice about the rules on the acceptance of gifts and invitations by third parties. This investigation also covers the prosecution service, as it falls under the political responsibility of the Minister of Security and Justice. Following this investigation, a report containing possible recommendations is expected by the summer 2015.

49. GRECO welcomes the measures taken by the authorities, which show that the evaluation and fine-tuning of the existing integrity policy form an integral part of the arrangements for the implementation of the policy. Instead of a formal evaluation to be carried out after a certain period of implementation, the evaluation and updating of the policy are underway at present within the framework of the contacts between the Chief of the Board of Prosecutors General, the integrity specialists of the Bureau and the various organisational units of the prosecution service. During these contacts, local areas of attention as identified by the Integrity Bureau are discussed and targeted arrangements are made to improve the implementation of the integrity policy. GRECO is satisfied that this organic process meets the requirements of the recommendation. GRECO also takes note of the current investigation on awareness of rules on gifts and third party invitations.

50. GRECO concludes that recommendation vii has been dealt with in a satisfactory manner.

III. CONCLUSIONS

51. **In view of the foregoing, GRECO concludes that the Netherlands has implemented satisfactorily or dealt with in a satisfactory manner only two of the seven recommendations contained in the Fourth Round Evaluation Report.** Of the remaining recommendations, two recommendations have been partly implemented and three have not been implemented.

52. More specifically, recommendation ii has been implemented satisfactorily, recommendation vii has been dealt with in a satisfactory manner, recommendations i and vi have been partly implemented and recommendations iii to v have not been implemented.

53. With respect to members of parliament, it is to be welcomed that all recommendations have been considered thoroughly by the relevant working bodies within both chambers of parliament, i.e. the House of Representatives and the Senate. While most of the issues raised by GRECO in the Evaluation Report have been acknowledged, more results need to be achieved. Positive developments have occurred, such as the revision of the Rules of Procedure of both chambers, the development of disclosure requirements and the new awareness measures decided by both chambers. Regarding other measures recommended, GRECO hopes that

these serious deliberations can be turned into more affirmative action. Progress is expected as regards the implementation and further improvement of the awareness measures, as well as the development of codes of conduct or of texts with a similar purpose, at the level of the chambers and/or of the political parties/groups. GRECO moreover regrets that both chambers have refused to introduce additional arrangements for supervision and enforcement of the integrity rules and urges them to reconsider their position.

54. As far as judges are concerned, work is underway to review the regulatory and policy framework applicable to substitute judges. GRECO looks forward to the results of this work. By contrast, it regrets that the authorities have still not determined their position as regards the introduction of a restriction on the simultaneous holding of the offices of judge and parliamentarian. GRECO invites the authorities to take more determined action on this issue.

55. Finally, as regards prosecutors, GRECO welcomes the evaluation and updating of the integrity policy that is currently taking place as an integral part of the policy's implementation.

56. In view of the above, GRECO therefore concludes that the current very low level of compliance with the recommendations is "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides to apply Rule 32 concerning members found not to be in compliance with the recommendations issued in the mutual evaluation report, and asks the Head of delegation of the Netherlands to provide a report on the progress in implementing the outstanding recommendations (i.e. recommendations i and iii to vi) as soon as possible, however – at the latest – by <u>31 December 2015</u>, pursuant to paragraph 2(i) of that Rule.

57. Finally, GRECO invites the authorities of the Netherlands to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.